

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
John Benoit
Alan Lowenthal



Day: Thursday May 14, 2009
Time: 9:30 am or upon adjournment of session
Room: Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

Transportation

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2660 Department of Transportation

The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

Issue proposed for Discussion / Vote

(see next page for issue)

- 1. Caltrans Section 26.00 Violations (Staff Issue).** Staff has discovered, and Caltrans confirms, that the department has been shifting funds among programs scheduled in the budget act without Section 26.00 reporting. Scheduling in the budget act is binding on department expenditures, but budget Control Section 26.00 does allow funding shifts among scheduled items with 30-day legislative reporting. Caltrans calls its process “cross-allocation” and indicates it promotes effective management when the type of work to be performed by a division and related to that divisions’ primary function, is better performed by experts in another division. For example, the 2008 Budget Act scheduled \$1.9 billion for Highway Transportation – Capital Outlay Support (COS), and \$77 million for Highway Transportation – Legal; however, Caltrans “cross-allocated” \$16.7 million and 101 positions from COS to legal. This practice results in a second set of books for Caltrans, with the public documents indicating a legal budget of \$78 million and 172 positions, but in reality, Caltrans cross-allocated to achieve a real budget of \$94 million and 273 positions for legal.

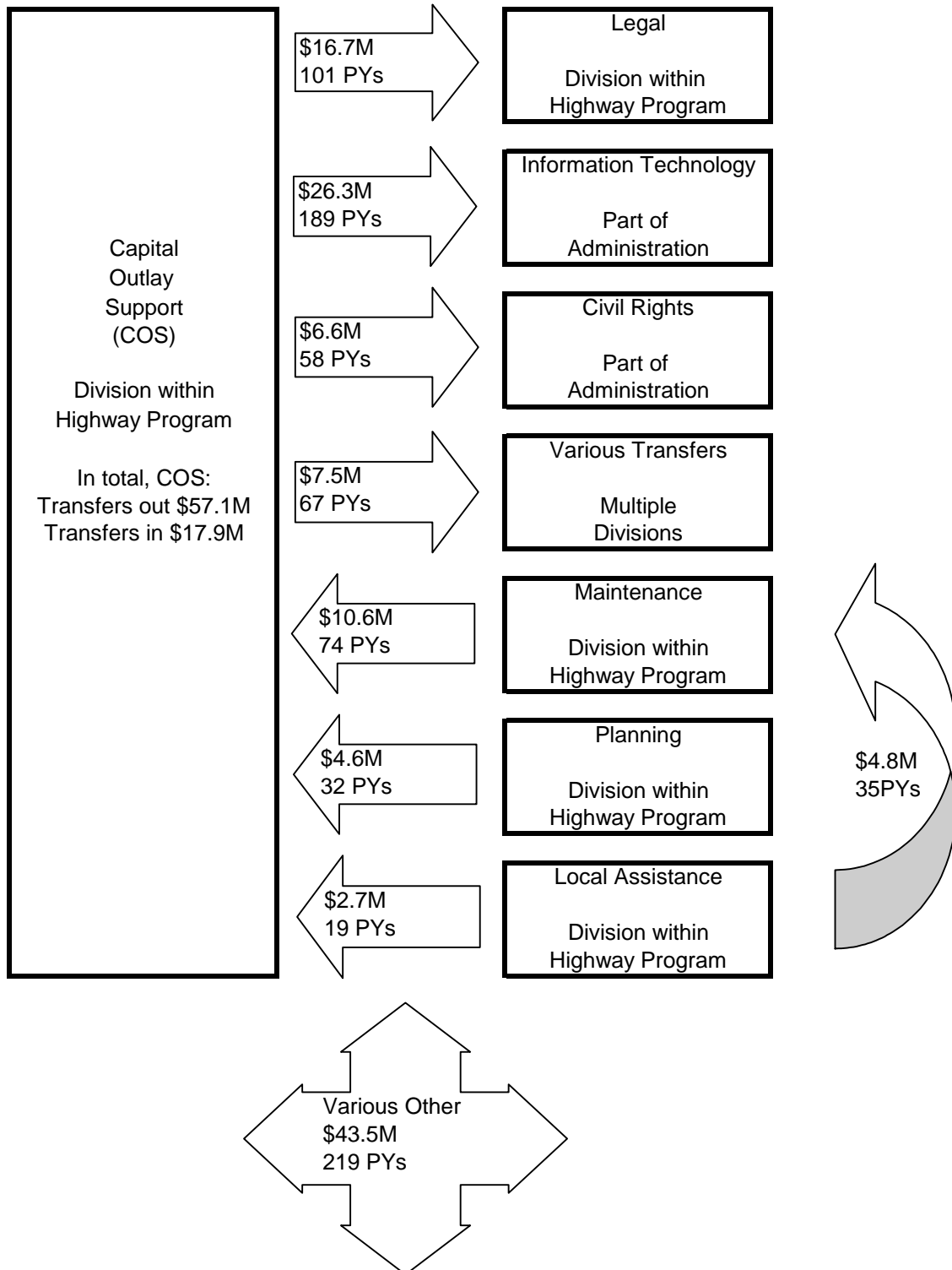
Bottom-line legal issue. While the management efficiency of the Caltrans “cross-allocation” practice can be discussed, the bottom-line is that no legal authority exists for the Administration to shift funds in this manner without notification to the Legislature. Staff is unable to find any statutory or State Administration Manual (SAM) definition or authority for the practice Caltrans calls “cross allocation” and the Administration has not provided any reference for legal authority.

Special Concern for the Capital Outlay Support Budget. The Caltrans Highway Transportation – Capital Outlay Support Program is uniquely budgeted because statute requires the department to zero-base the COS budget annually based on project workload – the Administration submits a May Revision letter each year to accomplish this adjustment. To get the best aggregate workload, based on Caltrans assessment of individual highway and road projects, the letter comes late in the budget process – in May. Due to the May timeframe and the complexity of the project-by-project workload, the LAO and legislative staff basically accept Caltrans workload numbers without detailed review. Cross allocation of funding and positions out of COS suggest Caltrans might be asking for Engineers and Engineer Techs, and then shifting that funding for Attorneys and other non-engineer work. The final expenditures may be justifiable, but the methodology and lack of transparency raise major concerns.

Special Concern for the Maintenance Budget. During the 2006 budget process, Caltrans proposed to shift funding and staffing for major *maintenance* contracts (including state worker design and oversight) from the Maintenance Division to the COS Division and SHOPP *rehabilitation* program. The Legislature rejected this request and kept the major maintenance funding in the Maintenance Division. This was done to maintain transparency for maintenance expenditures (because major maintenance was not consolidated into the SHOPP budget item) and to avoid a bigger COS May Finance Letter and the time constraints and data issues inherent in the May COS letter. The cross-appropriation information from Caltrans suggests the

department ignored this legislative direction and shifted \$10.6 million and 74 positions from Maintenance to COS on its second set of books.

Detail on Caltrans “cross-allocations” for 2008-09



Cross Allocation Chart: The chart on the prior page shows the “cross allocations” or shifts among divisions scheduled in the 2008 Budget Act. Staff excluded three Caltrans shifts from the chart: (1) Grant Anticipation Revenue Vehicles (or GARVEE) bond payments are scheduled in COS, but shifted to Administration for payment – this suggests a technical correction is needed, but GARVEE debt is elsewhere displayed in the Governor’s budget, so there is not a transparency concern; (2) Audits – centralized auditors are typically funded by the function they audit as they move within a department – so this shift does not raise concerns; and (3) statewide shifts such as positions shifted to the Director’s Office, the Secretary for BT&H Agency, and the Governor’s Office – while these funding shifts may raise other transparency concerns, they are statewide issues beyond the scope of this issue.

Staff Comment: Caltrans has not been able to suggest a legal justification for “cross allocations” so the department should suggest a fix. The amounts shifted without legislative reporting are substantial – more than \$123 million and 794 positions in 2008-09. This amount is over five percent of the Caltrans state operations budget. Among the options to fix this problem are the following:

1. Adjust the Budget Act scheduling to the anticipated expenditures of funds by each division (a Section 26.00 could later be submitted if additional adjustments are needed).
2. Add provisional language to the Budget Act to allow Caltrans to shift a defined amount of funding between divisions without legislative reporting.

Caltrans will provide a zero-based May Revision Finance Letter on its Capital Outlay Support workload for 2009-10. This letter should be an accurate representation of the *engineering-related* workload (both state worker and contractors) and correctly adjust for any positions shifts in the past for attorneys or other non-engineering work. Discussion of this issue was deferred to a future hearing at the request of Caltrans. In the interim, Caltrans will present detail to legislative staff and the LAO on the department’s proposed remedy.

Staff Recommendation: Does Caltrans have a workable solution that provides legal integrity and transparency? Option 1 under staff comments would seem the more viable option. However, the subcommittee should also consider adoption of reporting language that provides the Legislature information to continue following-up on this issue. The Legislative Analyst can assist in developing the reporting language.

Action:

2665 High-Speed Rail Authority

The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build the initial phase (from San Francisco to Anaheim) is currently estimated by the HSRA to cost \$34 billion (in 2008 dollars) – this includes a contingency, calculated at 30 percent of construction costs, as well as an allowance for environmental impact mitigation, calculated at three percent of construction costs.

January Budget: The January Governor's Budget included funding of \$125.2 million for the HSRA (all High-Speed Passenger Train Bond Fund). The 2009 Budget Act (SB 1XXX) reduced the HSRA budget down to base staff funding of \$1.8 million, without prejudice to the merit of the request, to allow for a thorough subcommittee review of the budget. Since the Safe, Reliable High-Speed Train Bond Act for the 21st Century (Proposition 1A) was approved by voters in November 2008, the HSRA has \$9 billion in bonding authority to begin implementation of the system. This transition from a small-budget study organization to a multi-billion dollar engineering and construction entity requires additional discussion with regard to the structure of the Authority and management and implementation of the high-speed rail project.

April Finance Letters: The Administration additionally submitted April 1 Finance Letters to augment the HSRA budget by \$14 million for additional contract costs, bringing the total request for 2009-10 to \$139.2 million.

March 17, 2009 Senate Transportation and Housing Committee Hearing: On March 17, 2009, the Senate Transportation and Housing Committee held an informational hearing with a focus on the Legislative Analyst's Office's analysis of the HSRA's proposed \$125.4 million budget for 2009-2010, and state government's response to the \$8 billion provided for high-speed rail by the federal stimulus program, the American Recovery and Reinvestment Act of 2009.

Pooled Money Investment Account (PMIA) loans: Since the March 17 policy committee hearing, the State Treasurer has been successful in selling general obligation bonds and the HSRA has received a PMIA loan to pay contract expenses in 2008-09.

Issue Proposed for Discussion:

- 1. Implementation of a Transportation Mega-Project.** As was alluded to in the introduction, the HSRA is tasked with quickly transforming itself from a small-budget study organization into a multi-billion dollar engineering and construction entity. This challenge is compounded by the fact that the high-speed rail project is a mega-project like the San-Francisco Oakland Bay Bridge or the "Big Dig" in Boston – these projects have few peers in scope and complexity. Mega projects often experience large cost escalations and schedule delays. With this great challenge in mind, the

Legislature has explored different structural models to increase the chances of successful implementation. Last year's SB 53 (Chapter 612, Statutes of 2008, Ducheny) requires the California Research Bureau to analyze the state's rail management structure and report recommendations by May 1, 2009. Other bills in the current legislative session look at consolidation of rail functions at Caltrans and the HSRA, and other project implementation and oversight issues.

Administration's Implementation Plan: The Administration is not proposing any government reorganization in the area of rail. In terms of implementation of the high-speed system, the Administration proposes to contract for engineering and design, and then contract with other consultants for oversight of those original contracts. The rationale for this model is that the Authority should avoid developing a large permanent organizational staff because the project is a one-time endeavor, requires highly specialized skills, and will require limited ongoing support. On the basis of this approach to project management, the HSRA is relying upon outside consultants to provide both technical and managerial services. The counter to this argument is that this model is the historic information-technology (IT) model that has often been unsuccessful. In fact, the Administration is currently proposing an IT reorganization that would in-source oversight of state IT projects to the Office of the Chief Information Office (OCIO).

The Business Plan suggests the HSRA will be completing the preliminary engineering and environmental review over the next three years, after which right-of-way acquisition and construction will commence. However, the federal stimulus funds may accelerate the start of right-of-way acquisition.

Administration's Funding and Timeline: The following two tables show the Authority's anticipated funding sources and timeline for implementation:



* HSRA graphic



* HSRA graphic from Business Plan

Issue raised by the LAO: The Legislative Analyst raised several concerns with the HSRA Business Plan, which was required by statute and released in November 2008. The LAO indicates that the report includes, to some degree, each of the statutorily required elements, the information provided is very general and does not provide specifics that are included in the typical business plans. The LAO lists details absent from the Business Plan in the table below and recommends that the Authority expand on its Business Plan to include the missing detail (see table below).

The LAO recommends:

- (1) that the Legislature withhold budget funding for 2009-10, until the additional information is provided;
- (2) that the Legislature require the authority to adopt project selection and evaluation criteria to ensure that bond funds are used efficiently and that they deliver projects with immediate mobility benefits; and
- (3) that the Legislature enacts legislation directing the authority to provide an annual report to the Legislature at the time the Authority submits its annual budget.

LAO Report: Business Plan Fails to Provide Many Details

Statutory Requirements	Sample of Missing Details
Description of the anticipated system	What are the expected service levels? What is the assumed train capacity?
Forecast of patronage, operation & capital costs	How are ridership estimates projected? What is the operating break-even point? How will costs be distributed by segment route?
Estimate of necessary federal, state, and local funds	How would funds be secured? What level of confidence is there for receiving each type of funding?
Proposed construction timeline for each segment	What is the proposed schedule, by segment, for completing design/environmental clearance? For beginning/completing construction
Discussion of risks and mitigation strategies	How would each type of risk impact the project? What specific mitigation strategies are planned to be deployed?

Source: Legislative Analyst's Office

Staff Comment: The HSRA should address the issues in this agenda item. The issues include:

- What department structure and project oversight model maximize the chances for successful implementation?
- What missing details cited by the LAO have since been provided by the HSRA? What is the HSRA response to each of the individual concerns raised by the LAO in the above table?
- What functions should the HSRA add internally as the project ramps up? For example, HSRA does not currently have an accounting section – that function is performed by the California Highway Patrol under an inter-agency agreement.

Staff Recommendation: Approve requested funding, \$139.2 million, for HSRA activities and that construction or further implementation shall only be achieved through subsequent statute. In addition, adopt budget bill language as follows:

(1) requires that one-half of the funding is available for only those activities necessary to begin preliminary engineering and environmental review; and

(2) requires the second-half of the funding be made available after January 1, 2010 after submittal of a revised and expanded Business Plan to the Joint Legislative Budget Committee, that among other things addresses at a minimum: (1) a community outreach component; (2) further system details, such as route selection and anticipated service levels; (2) a thorough discussion describing the steps being pursued to secure financing; (3) a working timeline with specific, achievable milestones; and (4) what strategies the authority would pursue to mitigate different risks and threats.

Action:

2720 California Highway Patrol

Background: The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

Issues Proposed for Vote Only:

- 1. Enhanced Radio System (April Finance Letter).** The Administration requests \$2.7 million to provide authority for the working drawings phase for replacing "Towers and Vaults" for the Enhanced Radio System. Funding was already approved for the Preliminary Plans phase for these projects, and funding for the Working Drawings phase is typically not included until the following year. These projects, however, are primarily located at high-elevations which are snowbound throughout the winter. In order to minimize the effect of seasonal delays, some of these projects will need to begin prior to the end of the fiscal year. This proposal will specifically replace existing telecommunications infrastructure at 15 specified sites with new telecommunications towers and vaults. These are necessary to achieve additional space required to accommodate equipment needed for the larger radio system upgrade.

Background: The budget includes \$99.2 million for the 2009-10 cost of upgrading the CHP's public safety radio system. In 2006-07, the Legislature approved this five-year project that has total costs of about \$500 million. The project will enhance radio interoperability with other public safety agencies and provide additional radio channels for tactical and emergency operations. The project involves new radio transmission equipment at CHP facilities, remote towers, and CHP vehicles – it does not include the dispatch equipment which is the subject of a 2009-10 BCP. As part of project approval, the Legislature required annual project reporting for the life of the project - due annually each March 1.

Staff Comment: The CHP should update the Subcommittee on the radio project. The March 1 report was emailed to Committee staff on March 24.

Staff Recommendation: Approve the Finance Letter.

Action:

- 2. Motorcycle Safety (April Finance Letter).** The Administration requests \$253,000 (plus an additional augmentation of \$340,000 in 2010-11) to accommodate an unforeseen increase in the demand for motorcycle safety training throughout the state. Since 1986 the CHP has provided the motorcycle safety training program for those required to complete it. Law requires every applicant for an original motorcycle operator's license who is under the age of 21 to complete this training. The CHP contracts with a private operator who has 124 training sites throughout California.

Background/Detail: This program is funded through a \$2 fee assessed on all initial and recurring motorcycle registrations. The Current allocation for this program was intended to serve 60,666 students. In 2007, 62,208 students were served, and 2008 is estimated to have served 66,000 students. These funds are specifically for the purpose of this program and the increase in motorcycle registrations supports the need to serve more students.

Staff Comment: The Motorcycle Safety Program is fully funded by motorcycle riders and it seems reasonable that total training cost would increase with the number of motorcycle riders.

Staff Recommendation: Approve the Finance Letter.

Action:

3. Officer Staffing Augmentation (BCP #18).

Background: In the January Budget, the Governor requested \$34.9 million (\$36.6 million ongoing) to add 165 uniformed positions, and 8 Automotive Technician positions in 2009-10 (an additional 75 uniformed positions would be added in 2010-11 for a total increase of 240 Patrol Officers). In 2006-07 and 2007-08, the Legislature approved a staffing increase of 471 positions (360 Officers, 32 uniformed managerial, and 79 non-uniformed support staff). Last year, the CHP requested another 120 Officer positions. An LAO analysis suggested the CHP would be unable to fill any of the positions in 2008-09 due to a high level of existing vacancies and constraints on the size of academy classes. The Legislature approved the 120 positions, but moved establishment to 2009-10 – these 120 positions are included in this year's BCP. Full funding for this year's BCP was included in the 2009 Budget Act (SB 1XXX).

Detail on past budget action: The need for additional CHP officers was discussed in several CHP reports and LAO analyses at the time the growth in staff began several years ago. Additional staffing was deemed particularly necessary in CHP divisions that had seen large increases in vehicle registrations and highway travel. One measure considered was the growth of vehicle collisions between 2000 and 2004. While various statistics indicated a need to grow the size of the CHP, the CHP budget requests have been made on a year-to-year basis and no overall plan was presented or approved by the Legislature. With past increases and staffing increases requested in this BCP, the number of field Officers would grow from 6,133 in 2006-07, to 6,493 in 2008-09, and to 6,733 in 2010-11. The CHP indicates it allocates new Officers in the field using the following considerations:

- Those commands experiencing the highest percentage of fatal collisions in recent years.
- Those commands requiring additional staff to operate on a 24/7 basis.
- Those commands located in regions experiencing the greatest percentage of growth in terms of population, registered vehicles, and registered drivers.

Detail on Traffic Safety: The following statistics are from the California Office of Traffic Safety:

- In 2006, 4,195 people died and 277,373 people were injured in California traffic collisions. This compares to 4,649 deaths (350,068 injuries) in 1991 and 3,730 deaths (303,023 injuries) in 2000.
- California's 2006 Mileage Death Rate (MDR) - fatalities per 100 million miles traveled (100 Million VMT) is 1.28, much lower than the national MDR of 1.41. Of the five largest states in terms of total traffic fatalities, (CA, FL, TX, GA, & NC), California has the lowest rate. This compares to a MDR of 1.8 in 1991 and 1.22 in 2000.

The statistics generally indicate that traffic safety improved throughout the 1990s, but that the trends started to reverse at the beginning of this decade. The CHP is one factor of many in reducing traffic deaths and injuries. Other factors to consider

are speed limits, vehicle collision-safety equipment (air bags), guard-rails and other roadside safety features, etc.

Detail on 2008-09 Fee Increase: Last year the Administration proposed, and the Legislature approved, an \$11 motor vehicle registration fee increase and a new late-payment penalty to fund the cost of CHP Officers and other needs. Existing law already included a \$10 fee for CHP Officers and this fee was increased to \$21 dollars. The penalties for late registration vary by lateness, but were essentially doubled. The fee/penalty increase was estimated to raise annual revenue by \$490 million. The Administration proposed the fee increases as necessary to fund the cost of Officers and related support, such as the new radio system. No out-year increase in the number of Officers was agreed to when the fee was approved.

LAO Recommendation: The Legislative Analyst recommends the Legislature maintain the 120 Officer positions previously approved for 2009-10 during last year's budget process, but reject the additional staff requested of 120 Officers and 8 Automotive Technicians. This would result in 480 new officers added since the staff growth began in 2006-07. The LAO notes two concerns: (1) the budget request does not account for staggered hiring over the fiscal year, and over-budgets 2009-10 cost by \$13 million; and (2) the additional 120 positions are not justified because they do not tie the augmentation to a level of service, such as Officers in proportion to licensed drivers. In total, the LAO recommends a reduction of \$22 million and new supplemental report language requiring the CHP to report by January 10, 2010, on the current baseline level of patrol services and the level of service it intends to achieve with recent and any future position requests.

Revised Administration Request: The Administration recalculated the budget request and indicates that it can be reduced by \$4.3 million in 2009-10 to better-account for the staggered hiring over the fiscal year.

Additional Budget Reduction: Another technical budget issue, is that the request does not account for attrition at the CHP Academy when the cost of cadets training is calculated.

Staff Comment: This issue was discussed at the March 26 Subcommittee #2 hearing and left open. Since then, Legislative staff, the LAO, and the Administration have reached a consensus recommendation on the appropriate reduction to account for staggered hiring and CHP Academy attrition. That reduction is \$10.6 million, which is also the reduction adopted by the Assembly.

Staff Recommendation: Approve the request minus \$10.6 million to accurately budget for staggered hiring and cadet attrition.

Action:
